

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KEVIN COWDEN,)
)
Plaintiff,)
)
v.) No. 4:08CV01534 ERW
)
BNSF RAILWAY COMPANY,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Kevin Cowden's Motion to Strike Reply Exhibits and Alternative Motion for Leave to File Surreply [ECF No. 284].

On February 27, 2014, Defendant BNSF Railway Company filed a Motion for an Order Showing Satisfaction of Judgment [ECF No. 271]. After Plaintiff filed his Memorandum in Opposition [ECF No. 278], Defendant filed a Reply [ECF No. 283], and attached two exhibits: (1) an *amicus curiae* brief submitted by the United States in a case before the Missouri Court of Appeals, Eastern District, and (2) the declaration of Donald Lee, Defendant's Manager of Payroll Taxes.

Plaintiff filed the instant Motion, asking the Court to strike the exhibits filed with Defendant's Reply, because Local Rule 7-4.01(A) states, "If [a] motion requires consideration of facts not appearing in the record, the party . . . shall file all documentary evidence relied upon." Alternatively, Plaintiff asks the Court leave to file his Surreply in Opposition to BNSF's Motion for an Order Showing Satisfaction of Judgment [ECF No. 284-1]. Defendant does not object to this latter option.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff Kevin Cowden's Motion to Strike Reply Exhibits and Alternative Motion for Leave to File Surreply [ECF No. 284] is **GRANTED, in part, and DENIED, in part.** The Court will not strike the exhibits from Defendant's Reply, but the Court accepts Plaintiff's proffered Surreply, which the Court will consider in adjudicating the pending Motion for an Order Showing Satisfaction of Judgment [ECF No. 271].

Dated this 29th Day of April, 2014.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE